UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,723	02/25/2002	Burton H. Birnbaum	1120-8	3962

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EXAMINER
MULLEN, KRISTEN DROESCH

ART UNIT	PAPER NUMBER
3762	

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	10/083,723	BIRNBAUM ET AL.
	Examiner	Art Unit
	Kristen Mullen	3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _10/25/04 (response)_.
2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _1-89_ is/are pending in the application.
    4a) Of the above claim(s) _26-89_ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) _1-17 and 20-25_ is/are rejected.
7) ☒ Claim(s) _18 and 19_ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on _30 April 2002_ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a) ☐ All   b) ☐ Some *   c) ☐ None of:
        1. ☐ Certified copies of the priority documents have been received.
        2. ☐ Certified copies of the priority documents have been received in Application No. _____.
        3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _4/26/02_.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1.   Claim 14 is objected to because of the following informalities: the word "requesting" in line 16 should be changed to --transferring--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3.   Claims 1-2, and 4-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Dempsey et al. (5,417,222).

Regarding claim 1, Dempsey shows shows a method comprising the steps of: initiating a connect mode in the heart rate monitor (10); initiating transfer software in the portable computer device (12); transferring the information between the heart rate monitor and the portable computer device through the communication link (40,42); and processing the heart rate information in the portable computer device (Col. 3, lines 52-58; Col.. 6, line 48-Col. 7, line 46).

With respect to claim 2, Dempsey et al. further shows the step of processing further includes the step of displaying the processed information on the portable computer device (Col. 7, lines 7-17).

Regarding claim 4, Dempsey et al. further shows connecting a first wireless communication interface (42) to the portable computer device (12) and a second wireless communication interface (40) to the heart rate monitor (10) (Fig. 1).

With respect to claim 5, Dempsey et al. further shows the step of maintaining at least one of a physical location between and an orientation of at least one of the heart rate monitor and the portable computer device during the transfer of the information (Fig. 1).

Regarding claims 6-7, Dempsey et al. shows the portable computer (10) is a personal digital assistant (PDA) and the information is heart rate information

With respect to claim 8, Dempsey et al further shows wherein the step of transferring the information between the heart rate monitor and the portable computer device includes at least one of the steps of uploading the information from the portable computer device to the heart rate monitor and downloading the information from the heart rate monitor to the portable computer device (Col.. 6, line 48-Col. 7, line 46).

4.   Claims 1-2, and 4-5, 7-17, and 20-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Nappholz et al. (5,113,869)

Regarding claim 1, Nappholz shows a method comprising the steps of: initiating a connect mode in the heart rate monitor (10); initiating transfer software in the portable computer device (20); transferring the information between the heart rate monitor and the portable computer device through the communication link (120); and processing the heart rate information in the portable computer device (Col. 4, line 61-Col. 5, line 2; Col.7, line 12-25; Col. 10, lines 27-34; Col. 12, line 18-26; Col. 16, line 1-Col. 17, line 55; Col. 19, line 7-Col. 21, line 43).

With respect to claim 2, Nappholz et al. further shows the step of processing further includes the step of displaying the processed information on the portable computer device (Col. 20, lines 10-12).

Regarding claim 4, Nappholz et al. further shows connecting a first wireless communication interface to the portable computer device (20) and a second wireless communication interface to the heart rate monitor (10) (Fig. 10).

With respect to claim 5, Nappholz et al. further shows the step of maintaining at least one of a physical location between and an orientation of at least one of the heart rate monitor and the portable computer device during the transfer of the information (Col. 7, lines 17-18; Col. 16, lines 48-51).

Regarding claim 7, Nappholz et al. shows the information is heart rate information

With respect to claim 8, Nappholz et al further shows wherein the step of transferring the information between the heart rate monitor and the portable computer device includes at least one of the steps of uploading the information from the portable computer device to the heart rate monitor and downloading the information from the heart rate monitor to the portable computer device (Col. 4, line 61-Col. 5, line 2; Col.7, line 12-25; Col. 10, lines 27-34; Col. 12, line 18-26; Col. 16, line 1-Col. 17, line 55; Col. 19, line 7-Col. 21, line 43).

Regarding claims 9-10, Nappholz et al. shows the step of initiating transfer software in the portable computer device includes the step of initiating transfer setting information software in the portable computer device, and initiating transfer heart rate/training information software in the portable computer device (Col. 4, line 61-Col. 5, line 2; Col.7, line 12-25; Col. 10, lines 27-34; Col. 12, line 18-26; Col. 16, line 1-Col. 17, line 55; Col. 19, line 7-Col. 21, line 43).

With respect to claim 11-12, wherein the step of transferring the information between the heart rate monitor and the portable computer device includes the steps of: initiating an upload setting information mode in the portable computer device, uploading setting information from

the portable computer device to the heart rate monitor; and returning the heart rate monitor to a

normal mode in response to completion of the upload of the setting information and initiating a

download setting information mode in the portable computer device, downloading setting

information from the heart rate monitor to the portable computer device; and initiating a normal

mode in the heart rate monitor in response to completion of the download of the setting

information (Col. 4, line 61-Col. 5, line 2; Col.7, line 12-25; Col. 10, lines 27-34; Col. 12, line

18-26; Col. 16, line 1-Col. 17, line 55; Col. 19, line 7-Col. 21, line 43).

Regarding claim13, Nappholz et al. shows initiating a batch heart rate/training

information transfer mode in the portable computer device; transferring batch (burst) heart

rate/training information from the heart rate monitor to the portable computer device; and

returning the heart rate monitor to a normal mode in response to completion of the batch transfer

of the heart rate/training information (Col. 12, lines 21-26).

With respect to claim 14, Nappholz et al. shows the step of transferring batch heart

rate/training information includes the steps of: initiating wireless communication with the heart

rate monitor by the portable computer device; requesting heart rate monitor information from the

heart rate monitor by the portable computer device; transferring the heart rate monitor

information from the heart rate monitor to the portable computer device; requesting file

information from the heart rate monitor by the portable computer device; transferring the file

information from the heart rate monitor to the portable computer device; requesting heart rate

information from the heart rate monitor by the portable computer device; transferring the heart

rate information from the heart rate monitor to the portable computer device; and storing the

heart rate information in the portable computer device (Col. 4, line 61-Col. 5, line 2; Col.7, line

12-25; Col. 10, lines 27-34; Col. 12, line 18-26; Col. 16, line 1-Col. 17, line 55; Col. 19, line 7-Col. 21, line 43).

Regarding claim 15, Nappholz et al. shows the step of initiating wireless communication with the heart rate monitor by the portable computer device includes the step of initializing a serial port on the portable computer device (Col. 4, line 61-Col. 5, line 2; Col.7, line 12-25; Col. 10, lines 27-34; Col. 12, line 18-26; Col. 16, line 1-Col. 17, line 55;Col. 19, line7-Col. 21, line 43).

With respect to claim 16, Nappholz et al. shows the step of requesting file information from the heart rate monitor by the portable computer device includes at least one of the steps of verifying whether the heart rate information has been substantially completely transferred to the portable computer device in the form of files, specifying the index of at least one of the transferred files to be processed by the portable computer device, and requesting information associated with at least one of the transferred files (Col. 4, line 61-Col. 5, line 2; Col.7, line 12-25; Col. 10, lines 27-34; Col. 12, line 18-26; Col. 16, line 1-Col. 17, line 55; Col. 19, line 7-Col. 21, line 43).

Regarding claim 17, Nappholz et al. shows the step of transferring the file information from the heart rate monitor to the portable computer device includes the step of transferring information associated with at least one of the transferred files (Col. 4, line 61-Col. 5, line 2; Col.7, line 12-25; Col. 10, lines 27-34; Col. 12, line 18-26; Col. 16, line 1-Col. 17, line 55; Col. 19, line 7-Col. 21, line 43).

With respect to claim 20, Nappholz et al. shows the step of terminating wireless communication with the heart rate monitor by the portable computer device.

Regarding claims 21-22, Nappholz et al. shows the step of processing the heart rate

information by the portable computer device including the step of performing graphical analysis.

With respect to claim 23, Nappholz et al. shows the step of calculating an average heart

rate (Col. 10, lines 27-34).

With respect to claim 24, Nappholz et al. shows the step of sychronizing the transfer of heart rate

information with a program on the portable computer device

Regarding claim 25, Nappholz et al. shows the step of transferring the information

between the heart rate monitor and the portable computer device includes the steps of: initiating

a real-time heart rate/training information transfer mode in the portable computer device,

transferring heart rate/training information from the heart rate monitor to the portable computer

device in substantially real-time; and returning the heart rate monitor to a normal mode in

response to completion of the substantially real-time transfer of the heart rate/training (Col. 4,

line 61-Col. 5, line 2; Col.7, line 12-25; Col. 10, lines 27-34; Col. 12, line 18-26; Col. 16, line 1-

Col. 17, line 55; Col. 19, line 7-Col. 21, line 43).

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

6.   Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dempsey et al.

(5,417,222). Dempsey et al. is as explained before, however, Dempsey fails to show utilizing

Bluetooth for the wireless communication link. It would have been obvious to one with ordinary

skill in the art at the time the invention was made to employ Bluetooth for the IR or RF

communication link of Dempsey et al wherein so doing would amount to mere substitution of

one functional equivalent for another that would work equally well on the Dempsey et al. device.

Allowable Subject Matter

7.   Claims 18-19 are objected to as being dependent upon a rejected base claim, but would

be allowable if rewritten in independent form including all of the limitations of the base claim

and any intervening claims.

Regarding claim 18, the prior art orf record fails to teach or suggest a method comprising

the steps of: initiating a connect mode in the heart rate monitor; initiating transfer software in the

portable computer device; transferring the information between the heart rate monitor and the

portable computer device through the communication link comprising initiating a batch heart

rate/training information transfer mode in the portable computer device; transferring batch

(burst) heart rate/training information from the heart rate monitor to the portable computer

device; and returning the heart rate monitor to a normal mode in response to completion of the

batch transfer of the heart rate/training information comprising initiating wireless communication

with the heart rate monitor by the portable computer device; requesting heart rate monitor

information from the heart rate monitor by the portable computer device; transferring the heart

rate monitor information from the heart rate monitor to the portable computer device; requesting

file information from the heart rate monitor by the portable computer device; transferring the file

information from the heart rate monitor to the portable computer device; requesting heart rate

information from the heart rate monitor by the portable computer device; transferring the heart

rate information from the heart rate monitor to the portable computer device; and storing the

heart rate information in the portable computer device; and processing the heart rate information in the portable computer device; all in combination with the step of requesting heart rate information from the heart rate monitor to the portable computer device includes the step of requesting a quantity of samples, information associated with at least one of the samples, a quantity of laps, and information associated with at least one of the laps.

Regarding claim 19, the prior art orf record fails to teach or suggest a method comprising the steps of: initiating a connect mode in the heart rate monitor; initiating transfer software in the portable computer device; transferring the information between the heart rate monitor and the portable computer device through the communication link comprising initiating a batch heart rate/training information transfer mode in the portable computer device; transferring batch (burst) heart rate/training information from the heart rate monitor to the portable computer device; and returning the heart rate monitor to a normal mode in response to completion of the batch transfer of the heart rate/training information comprising initiating wireless communication with the heart rate monitor by the portable computer device; requesting heart rate monitor information from the heart rate monitor by the portable computer device; transferring the heart rate monitor information from the heart rate monitor to the portable computer device; requesting file information from the heart rate monitor by the portable computer device; transferring the file information from the heart rate monitor to the portable computer device; requesting heart rate information from the heart rate monitor by the portable computer device; transferring the heart rate information from the heart rate monitor to the portable computer device; and storing the heart rate information in the portable computer device; and processing the heart rate information in the portable computer device; all in combination with the step of transferring the heart rate

information from the heart rate monitor to the portable computer device includes the step of

transferring a quantity of samples, information associated with at least one of the samples, a

quantity of laps, and information associated with at least one of the laps.
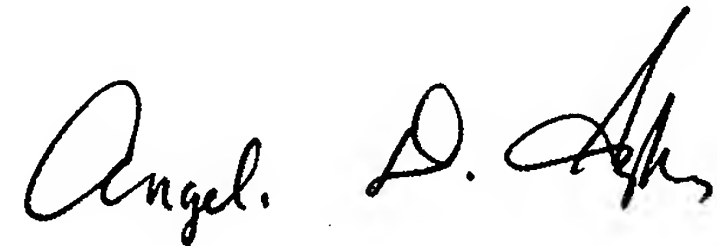
Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Kristen Mullen whose telephone number is (571) 272-4944. The

examiner can normally be reached on M-F, 10:30 am-6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Angela Sykes can be reached on (571) 272-4955. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

kdm

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